

## PATENT

REMARKS

No new matter has been added.

The Final Office Action mailed February 3, 2005, has been received and reviewed.

Claims 1 through 11 are currently pending in the application. Claims 1 through 11 stand rejected. Applicants propose to amend claims 1, 5, and 7, and respectfully request reconsideration of the application as proposed to be amended herein.

**35 U.S.C. § 103(a) Obviousness Rejections**

Obviousness Rejection Based on Gagnon (EP 1 024 661 A2) and Further in View of U.S. Patent No. RE38,007 to Tsukamoto et al.

Claims 1 through 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gagnon (EP 1 024 661 A2), and further in view of Tsukamoto et al. (U.S. Patent No. RE38,007). Applicants respectfully traverse this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

The 35 U.S.C. § 103(a) obviousness rejections of claims 1 through 11 are improper because the elements for a *prima facie* case of obviousness are not met. Specifically, the rejection fails to meet the first criterion that the prior art reference must teach or suggest all the claim limitations. Applicants submit that any proposed combination of the Gagnon reference in view of the Tsukamoto reference does not and cannot establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of independent claims 1, 3, 5, 7, and claims 2, 4, 6, 8-11, depending therefrom because, at the very least, the cited prior art does

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not teach or suggest all the claim limitations of the presently claimed invention as set forth hereinabove.

Applicants submit that the proposed combination of the Gagnon reference and Tsukamoto reference does not teach or suggest the claim limitations calling for “**information interleaved with the broadcast session on the broadcast transmission channel, wherein the . . . information provides information for processing the broadcast channel**” [Independent Claim 1] and “**message interleaved with the broadcast session . . . , wherein the . . . message provides information for processing the broadcast session**” [Independent Claims 3, 5, 7]. Regarding Applicants’ amendments to claims 1, 5, and 7, Applicants have amended these claims to include limitations previously presented in independent claim 3, which limitation has been before the Examiner since the filing of the present application.

Claims 1 and 2

The Office Action alleges:

Regarding claim 1, Gagnon teaches in a wireless communication system supporting a broadcast service . . . , a method comprising: transmitting a broadcast session on a broadcast transmission channel (. . . col. 10, lines 45 to col. 11, line 17).

Gagnon further teaches “transmitting broadcast overhead information” interleaved with the broadcast session on the broadcast transmission channel (. . . col. 11, line 46 to col. 12, line 26).

Gagnon does not explicitly teach the transmission of a single broadcast session.

However, the preceding limitation is known in the art of communications. Tsukamoto teaches the broadcasting station transmits both video signals and access control signals to a receiving system in a single transmission . . . (Office Action, pp. 2-3).

Applicants respectfully disagree with the Office Actions characterization of the Gagnon reference. A close reading of the specific Gagnon reference citations from the Office Action reveals teachings very different from Applicants’ invention as claimed. Specifically, the Gagnon reference recites:

A preferred broadcasting system is the satellite-based system utilized by the DIRECTV® broadcast service. Such embodiments . . . employ a satellite

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receiving antenna to acquire real-time video broadcasts and **periodic data broadcasts** used to construct a program guide display. (Col. 11, lines 6-12; emphasis added).

In operation, the programming sources 108 receive video and audio programming from a number of sources, . . . . The received programming signals, along with data signals from the control data source 110 [note- the Gagnon reference provides no further enabling disclosure on the function or purpose of these signals], the data service source 112 [note- again, the Gagnon reference provides no further enabling disclosure on the function or purpose of these signals], and the program guide data sources 114, are sent to the video/audio/data encoding system 116 where they are digitally encoded into information data streams that are multiplexed into a packetized data stream or bit stream using a number of conventional algorithms. Each data packet within the packetized data stream includes a header that identifies the contents of the data packet and a service channel identifier (SCID) that identifies the data packet. (Col 11, line 46 through col. 12, line 2; emphasis added).

. . . . The PPG [pictographic program guide] . . . is assembled using two basic types of external data: (1) real-time broadcast data (e.g. streaming data), and (2) file data (i.e., data that is periodically downloaded and stored). (Col. 12, lines 42-46).

Applicants respectfully submit that Gagnon discloses no such information that is "interleaved with the broadcast session", "wherein the . . . information provides **information for processing the broadcast session**" as claimed by Applicants. In distinct contrast, Gagnon transmits **information** that is used to build a structure **independent of the processing of the broadcasting session**, namely Gagnon's program guide. In the Gagnon reference, the transmitted programming guide information has no bearing upon the processing of any of the broadcast channels but is merely provided as a completely independent source of information. In short, the transmission or non-transmission of Gagnon's program guide information has no bearing upon processing of any broadcasting session.

While Applicants' claim 3, as previously presented, included a similar limitation as now proposed for claims 1, 5, 7, namely, a "message [] interleaved with the broadcast session [], wherein the [] message provides information for processing the broadcast channel" (Applicants' claim 3, in part), the Office Actions' citation to corresponding teachings within the Gagnon reference are also unsupported and non-enabling. Specifically, the Office Action cites to the

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Gagnon reference, col. 29, line 39 to col. 30, line 57 for support, however, the alleged Gagnon teaching is unsupported by the Gagnon reference.

At the Office Action's citation, the Gagnon reference explicitly states:

... One [] method that allows the PPG [pictographic program guide] [] to efficiently find and process information for presentation to a user are "session description protocol plus" (SDP+) records. (Col. 29, lines 31-34).

An SDP+ record is an announcement mechanism that includes a number of fields, which are assembled into a single record or file ... (Col. 29, lines 39-41).

While the Gagnon reference continues to expound upon fields and information content of the SDP+ record (e.g., start and end times of the broadcast, the repeat times of the broadcast, addresses of Internet web pages that provide additional information regarding the specific program item, etc.), the SDP+ record clearly further enhances the **independent** program guide of Gagnon rather than providing information that is "interleaved with the broadcast session", "wherein the ... information provides **information for processing the broadcast session**" as claimed by Applicants.

Applicants respectfully submit that since both the Gagnon reference and the Tsukamoto reference are silent regarding information that is "interleaved with the broadcast session", "wherein the ... information provides **information for processing the broadcast session**" as claimed by Applicants, the cited references, namely the Gagnon reference in view of the Tsukamoto reference, do not and cannot establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of independent claim 1 and claim 2 depending therefrom because, at the very least, the cited prior art does not teach or suggest all the claim limitations of the presently claimed invention as set forth hereinabove.

Applicants submit that since neither the Gagnon reference or the Tsukamoto reference, either individually or in any proper combination, teach or suggest all of the limitations of Applicants' invention as claimed, these references cannot render obvious Applicants' invention as claimed under 35 U.S.C. § 103. Therefore, Applicants respectfully request that the rejections be withdrawn.

**PATENT****Claims 3 through 11**

The Office Action similarly alleges teachings by the Gagnon reference and the Tsukamoto reference as described above. Applicants respectfully disagree with the Office Action's characterization of the Gagnon reference and the Tsukamoto reference.

Applicants herein sustain the above proffered arguments, namely that Gagnon discloses no such information that is "interleaved with the broadcast session", "wherein the . . . information provides **information for processing the broadcast session**" as claimed by Applicants in independent claims 3, 5, 7 and claims 4, 6, 8-11 depending therefrom.

Furthermore, since both the Gagnon reference and the Tsukamoto reference are silent regarding information that is "interleaved with the broadcast session", "wherein the . . . information provides **information for processing the broadcast session**" as claimed by Applicants, the cited references, namely the Gagnon reference in view of the Tsukamoto reference, do not and cannot establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of independent claims 3, 5, 7 and claims 4, 6, 8-11 depending therefrom.

Applicants submit that since neither the Gagnon reference nor the Tsukamoto reference, either individually or in any proper combination, teach or suggest all of the limitations of Applicants' invention as claimed, these references cannot render obvious Applicants' invention as claimed under 35 U.S.C. § 103. Therefore, Applicants respectfully request that the rejections be withdrawn.

**PATENT****ENTRY OF AMENDMENTS**

The proposed amendments to claims 1, 5, and 7 above should be entered by the Examiner because the amendments are supported by the as-filed specification and drawings and do not add any new matter to the application. Further, the amendments do not raise new issues or require a further search. As stated above, Applicants' amendments to claims 1, 5, and 7, include limitations previously presented in independent claim 3, which limitation has been before the Examiner since the filing of the present application. Finally, if the Examiner determines that the amendments do not place the application in condition for allowance, entry is respectfully requested upon filing of a Notice of Appeal herein.

**CONCLUSION**

Claims 1-11 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,

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